

**OPINION
69-510**

March 25, 1969 (OPINION)

Mr. Calvin N. Rolfson

State's Attorney

Pembina County

RE: Townships - Farm to Market Roads - Levy Authorized at Annual Mee

This is in response to your letter in which you ask for an opinion whether or not the township electors may at a special meeting authorize the levy of an additional five mills for the purpose of providing revenue to cooperate with the county in constructing or maintaining farm-to-market roads in the township. Or if such authorization may be authorized only at the annual meeting.

Section 57-15-19.4 provides as follows:

TOWNSHIP FIVE MILL LEVY FOR ROADS. The electors of each township shall have power at the annual meeting to levy not over five mills on the dollar of the net taxable assessed valuation for the purpose of cooperating with the county in constructing and maintaining federal aid farm to market roads within such township. The tax levy provided herein shall be over and above the limitations specified in section 57-15-20 and shall be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01."
(Emphasis supplied)

Section 58-04-02 as is pertinent to the question provides as follows:

SPECIAL MEETINGS - WHEN HELD. A special township meeting may be held for the purpose of electing township officers to fill vacancies that occur and for the purpose of transacting other lawful township business whenever the supervisors or township clerk, or any two of them, together with at least twelve freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary, or whenever a special meeting is required by any other provision of the laws of this state."

It is thus observed that the special meeting is somewhat limited to filling vacancies or when a meeting is necessary or required by other provisions of law.

We cannot escape or ignore the specific provisions contained in section 57-15-19.4. Not only did the legislature provide that such question was to be resolved at the annual meeting but it also specifically referred to section 58-04-01 which is the statute governing annual meetings. The language is clear and unambiguous.

On May 4, 1961, in a letter to Mr. Graham, the state's attorney of

Dickey County, this office advised that the entering into a contract for fire protection as authorized in section 18-06-10 could be accomplished only at the annual township meeting. The situation in this instance is no different.

We must assume that the electors of a township are aware that certain activities should be brought up and disposed of at the regular annual meeting. Correspondingly it can be assumed that if such matters were not brought up at the annual meeting they will not be brought up until the next annual meeting. We are, however, recognizing that if the annual meeting cannot be held because of inclement weather and is held at a subsequent date that such continued meeting would still constitute a regular annual meeting.

It is therefore our opinion that the determination whether or not to levy a five mill levy as authorized under section 57-15-19.4 must be at the annual township meeting as authorized under section 58-04-01.

HELGI JOHANNESON

Attorney General